BEFORE THE SUMMIT COUNTY

HUMAN RESOURCE COMMISSION

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In Re: EMPLOYEE APPEAL OF DAVID McCANN	)	
	)	
	)	No. 0601

Transcript of proceedings in above-captioned matter, held before Lisa Miller, Hearing Officer, taken before me, the undersigned, Leanne Garro, a Stenographic Reporter and Notary Public in and for the State of Ohio, at the Ohio Building, 8th Floor Conference Room, 175 South Main Street, Akron, Ohio, on Wednesday, the 12th day of July, 2006, at 9:03 o'clock, a.m.

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APPEARANCES:

On behalf of Summit County

By: Kasie L. Briggs, Attorney at Law,
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(330) 643-2545

On behalf of the Center For Families & Children

Thompson, Hine

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On behalf of David McCann

By: Pro Se

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P R O C E E D I N G S

MS. MILLER: All right. We're ready to go.

I have an e-mail from Dave sent to Janis asking to recall Renee Dornack. Do you have any --

MS. BRIGGS: I object. He's already had the opportunity to question her. We've had how many witnesses come through here, and we've got how many more witnesses coming through here today and we're going to start recalling people?

I just have to note the county's objection for the record.

MS. MILLER: What's the purpose?

MR. McCANN: The purpose is a further elaboration on comments that she made that I think are very important to answering the questions that were featured on my referral to the Employees Assistance Program that you, as the hearing officer, want answered, and I think it's very important that she have the opportunity to come back to further elaborate on those.

MS. MILLER: Okay. We'll go through the

rest of the witnesses today and I'll rule on this later.

MR. McCANN: That's fine.

MS. MILLER: Janis, if you want to get the first person in.

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SHANNON LYSENKO

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Would you, please, state your name, spelling your last name and your position with Summit County?

A Shannon Lysenko, L-y-s-e-n-k-o. I'm a clerk of board of control and purchasing specialist and before you have any questions, I do have a statement to make.

Dave McCann is the only person that I know who can effectively control his anger. I've seen him many times over the last six years have irate phone calls, crazy people calling him and he is so polite and he is very effective in getting his point across.

He hangs up the phone. What he always does

is takes a deep breath, goes for a walk then he comes back and everything's fine, so he should be teaching anger management classes rather than going to them, and I don't know of anyone else who has ever been referred to anger management in the county or even the executive office, though I really don't think that raising your voice or disagreeing with a supervisor warrants anger management and I think that's inconsistent. That's it.

Q Thank you, Shannon.

You sat next to me for a period of six years; is that correct?

A Yes.

Q In his testimony of Monday, July 10th, Director Richard Strain in answer to the question were certain directors in the Ohio Building adverse to purchase required software for their computers and Mr. Strain answered yes, there were certain directors who were adverse to purchasing required software for their computers.

Now, the director of communications, Jill Skapin claims to have had an issue or as it is stated on the anger management referral, an exchange with me regarding a piece of software, in

this case, the Adobe Professional Software; is that correct?

A Yes.

Q I'd like for the record, please, to read a letter that Ms. Lysenko prepared. Very interestingly, this was unsolicited, written on George Washington's birthday, February 22nd, 2006, certainly in keeping with the writer, Parson Weems', notation of George Washington who never told a lie, I would also note that Ms. Lysenko is the daughter of a respected jurist in this county.

MS. MILLER: Before you go, regarding the question he asked you about Jill Skapin, how do you have personal knowledge that she did not want to do that?

MR. McCANN: The letter --

MS. MILLER: I'm asking her.

MR. McCANN: Oh, I understand, but --

MS. MILLER: No, wait. I'm asking her a follow-up question.

MR. McCANN: Isn't that a --

THE WITNESS: What was the question?

MS. MILLER: I'm asking a follow-up question.

MR. McCANN: Isn't that up to opposition,

Counselor? You're the hearing officer.

MS. MILLER: I am asking a follow-up question.

THE WITNESS: What is your follow-up question?

MS. MILLER: How do you have personal knowledge that she did not want to purchase the software?

THE WITNESS: I don't think she would have called and had been angry. That was the reason for her phone call.

MS. MILLER: Did she call you and was angry?

THE WITNESS: No, she did not call me.

MS. MILLER: Okay. So how do you have personal knowledge that she was angry about whatever?

MR. McCANN: I object to this line of questioning.

A, you are to be as the hearing officer certainly not an advocate of either side, whether it be me or the administration. I would welcome the question from opposition counselor if that's the direction you want to go, but in your position as chair of this

Human Resource Commission, I don't think it's appropriate. If Counselor Briggs would like to pursue it, I would respect that.

MS. BRIGGS: I can ask the question, but I'll have you know that Lisa as the hearing officer has asked many witnesses questions, follow-up questions, to something that she doesn't understand, so it's not like she's being an advocate for anyone.

MR. McCANN: In retrospect and in thinking about that as all of us have thought about the previous hearing from Monday, I'm sure there's many questions that come to our mind in terms of the decorum of this hearing.

Now, I would welcome your questions and would offer objections, but for a hearing officer to play advocate for either the administration or for myself is not acceptable.

MS. BRIGGS: Well, again, I don't think she's being an advocate and I don't have any follow-up questions related to that question. I think it's been established that Ms. Lysenko has no personal knowledge

of the question she answered.

MS. MILLER: Overruled. Ever since I've been a hearing officer here, I ask questions of witnesses. I've done it in every hearing that I've ever had here. That's -- my job is to find out the facts, that's my job. This isn't a court of law. I'm permitted to ask questions. Those aren't in the rules. I'm allowed to try to find out what is happening. That's my job.

MR. McCANN: And that's my job as well if I am permitted to read this letter.

MS. MILLER: All right. You will be when I'm finished with the question. Do you understand that?

MR. McCANN: No, I don't.

MS. MILLER: Okay. Well, then, you just need to be quiet until I'm finished asking a question.

MR. McCANN: I object, and I will be quiet.

MS. MILLER: How did you find out about this? Did you -- were you there when it happened? Did you observe him on the phone with her?

THE WITNESS: Yes.
MS. MILLER: Okay. So you were there. You heard his end of the conversation?
THE WITNESS: Yes, that's correct.
MS. MILLER: Okay. That's what I was trying to establish.
THE WITNESS: That's correct.
MR. McCANN: Am I permitted now to read the letter?
MS. MILLER: Yes.
MR. McCANN: Dated February 22nd, 2006, Several weeks ago, David McCann was on the phone with Jill Skapin and was talking to her about software that was on her computer that was not purchased through the purchasing department or approved/installed by the MIS department. He was polite and began to repeat himself several times. It was apparent Jill was not listening. He informed her then an Adobe license was purchased for her computer and put on our inventory list by request of the MIS department after her computer crashed. He had to tell her several times that if they did not want the software, it could be

returned. He eventually had to raise his voice to get his point across. At no other time in the six-year period have I ever heard David, I have sat next to him this long, raise his voice or be rude to anyone. It is ludicrous to think that such a polite and mild-mannered man would ever need any anger management. Knowing the personality or lack thereof of Ms. Skapin and how rude and disrespectful she is to employees, it would be easy to lose your cool. Brian Nelson was also sitting next to David and heard him on the phone. I heard Brian on the phone with Linda Phelps and he explained to her that David was not being rude, that he only raised his voice at the end of the conversation to get his point across. In no way did I ever consider David needing any anger management because of an isolated incident of raising his voice. David is the most polite, courteous and well-mannered man I have ever had the pleasure to work with. In fact, he prides himself on it. I hear nothing but wonderful compliments regarding his behavior from county employees and

vendors. David informed me that the day after he filed his harassment complaint with the Ohio Civil Rights Commission and the day after the complaint was published in the Akron Beacon Journal, that he was forced to sign an Ease at Work form for anger management. This incident happened several weeks ago and was not mentioned to him until February 22nd of 2006. It is obvious retaliation for filing the complaint. This harassment has caused a hostile work environment. Sincerely, Shannon Lysenko.

Your letter is in sharp contrast to Mr. Nelson's testimony where no mention was made to his immediately calling the director of finance and budget to say that I was not rude.

Why do you think Mr. Nelson would not be telling the full story?

MS. BRIGSS: Objection.

I don't know how she could know what Brian was thinking.

MR. McCANN: I think it's very important to the issue at hand. If someone has given testimony which is certainly contrary to

this letter, and my question is why does she think Mr. Nelson would not be telling the full story?

MS. MILLER: You didn't ask Brian why he didn't --

MR. McCANN: I'm asking Ms. Lysenko who was a witness to all this.

MS. MILLER: Yes, but she can't answer why Brian Nelson did something. She doesn't know why he did it.

MR. McCANN: Speculation, is that --

MS. MILLER: Yes, I mean, that's all that she --

MR. McCANN: Okay. Now, how would that differ from Counselor Briggs asking every witness would you participate in anger management?

MS. MILLER: Because they're answering for themselves.

MR. McCANN: But it's speculation how they would react to that.

MS. MILLER: But you're asking her to answer a question about how -- about why someone else did something. That's different on why -- if you ask me why would

I do something, I can speculate in my own mind how I might react to a certain situation, but I can't speculate how she might act in a certain situation or how you might act in a certain situation.

MR. McCANN: Counselor, I'm being very polite and I have to go back to the honorable counselor's questions from the previous session of July 10th where she asked each individual -- please, let me finish, whether each individual would participate in anger management.

That was speculation, A, and, secondly, anger management is a private matter and that question should not have been asked. I raised my objections. They were consistently overruled.

Now, in my asking this question right now as an employee of the department of purchasing, she certainly has an opinion to offer and whether or not it is accepted by the hearing officer is another matter entirely, but we're going to the heart of the matter here.

MS. MILLER: Right. You could certainly

have asked Brian Nelson why he didn't do that then he could answer that, but I don't know how she can testify to what Brian was thinking. She's not Brian.

MR. McCANN: My point, again, is looking at the matter of Mr. Nelson and what he said in his testimony where he didn't even mention calling Ms. Phelps.

MS. MILLER: Right, but you didn't ask him.

MR. McCANN: That's true, because it was a lie, Counselor, and I'm not going to be a party to lies.

MS. MILLER: No, the proper inquiry would have been for you to ask Brian why he didn't say -- did he call Linda Phelps and why did he call Linda Phelps. That would have been the proper inquiry, to find out why he didn't do that. It's not -- she can't testify to what Brian did. She doesn't -- she's not Brian.

THE WITNESS: Can I tell you what I heard happened?

MS. MILLER: No.

THE WITNESS: Okay.

MR. McCANN: Well, I'll tell you what happened.

MS. MILLER: Well, you're not under oath. You can't testify.

MR. McCANN: Well, swear me in.

MS. MILLER: Well, when you get ready to call --

MR. McCANN: No, this is germane, Hearing Officer, and, again, you are serving as the advocate for the administration. I know you're in an unclassified position, I understand that, but we have got to get to the heart of the matter and you took me to task on Monday how are we going to deal with these issues, and I am prepared in my questioning to deal with these issues.

MS. MILLER: And you can ask Shannon anything you want about what Shannon knows.

MR. McCANN: All right. Then I'll ask the next question.

BY MR. McCANN:

Q Do you feel that Mr. Nelson was being pressured to act as the cover for the director of finance and budget and the director of communications?

MS. BRIGGS: Objection.

MS. MILLER: Overruled.

BY MR. McCANN:

Q I'll repeat the question.

A Yes, please.

Q Do you feel that he was being pressured to act as the cover for the director of finance and budget and the director of communications?

A Well, yeah.

Q And why is that?

A Well, Linda is very close to retiring. He's been telling everyone that she's promised him her position.

MS. MILLER: Has he told you that?

THE WITNESS: Yes, he has.

BY MR. McCANN:

Q My next question is this, if you had a problem with information about pricing or issues regarding competitive bids or requests for proposals, would you go to Mr. McCann for assistance or Mr. Nelson?

A Mr. McCann.

Q And why is that?

A David is knowledgeable about all of the purchasing procedures and he trained me in all of the purchasing procedures.

Q You were asked by Roger Johnson to comment about

the alleged incident of February 8 where according to the Employee Assistance Program referral I was, quote, "yelling and creating a disturbance that affected the entire office"; is that correct?

A Yes.

Q Was Mr. Johnson courteous to you?

A No.

Q What did Mr. Johnson ask you?

A He asked if I was there that day at work, where I sat in the office, what door you left when you left the room, what door you entered in to the budget offices and whether I was afraid of you.

Q And how did you respond?

A Well, I told him where I sat. I told him which door you left, and I told him at no time have I ever been afraid of you and that you had just raised your voice on the phone and left the office.

Q And the interview was abruptly ended without you being able to provide elaboration?

A Yes, that's correct. I started telling him I was glad that you finally stood up for yourself and that you had been provoked for so long and then he cut me off.

MS. MILLER: And this was about the

incident on the phone with Jill?

THE WITNESS: No.

MS. MILLER: No.

THE WITNESS: This was the incident where they said that he was -- got in an argument with Brian Nelson and Linda Phelps and was yelling.

MS. MILLER: So you were present at both?

THE WITNESS: Yes.

MS. MILLER: Okay. Now, help me understand, where is your office?

THE WITNESS: Same one as David's room, 720. He's in an office, has a door. I'm kind of out in the middle of the hallway.

MS. MILLER: Okay. I'm not -- when you get off at the second floor, Linda Phelps' office is there. Is that where you are?

THE WITNESS: No.

MS. MILLER: Okay.

THE WITNESS: It's kind of next to council chambers, a little bit down that hallway.

MS. MILLER: Okay.

THE WITNESS: In the back.

MS. MILLER: Okay.

THE WITNESS: So when he would have left to go to the budget office, I wouldn't have heard anything else. That's what Roger was asking.

MS. MILLER: Okay. So let me understand, your office, her office is in -- when you get off the elevator, her office is to the left and is that where Brian Nelson's office is as well?

THE WITNESS: At the time now, but not at that time -- yes, he was back there then, yes.

MS. MILLER: Okay. And your office when I get off the elevator I would go to the right?

THE WITNESS: Yes.

MS. MILLER: Okay.

THE WITNESS: And theirs is to the left.

MS. MILLER: Okay. So when he was -- got in -- had the conversation with Jill Skapin, that was in his office where you are?

THE WITNESS: Yes.

MS. MILLER: Okay. And when he got in this conversation with Linda Phelps with Brian Nelson present, was that in his

office?

THE WITNESS: Yes.

MS. MILLER: That was in Dave's office?

THE WITNESS: He was on the phone in his office and then he left the office to go talk to them in person.

MS. MILLER: And were you present when they were speaking in person?

THE WITNESS: No.

MS. MILLER: Okay.

MR. McCANN: May I continue my questioning?

MS. MILLER: Yes.

BY MR. McCANN:

Q As clerk of the board of control, you process quite a number of documents related to services and to the best of your ability insure that questionable items that are not in accordance with Summit County Ordinance 177 are resolved; is that correct?

A Yes.

Q If there were philosophical differences on the board of control issues, do you feel you have any recourse to your communicating your concern, and is your opinion respected and listened to by the

director, Linda Sowa-Phelps?

MS. BRIGGS: Objection. This is totally irrelevant.

MR. McCANN: I'm sorry, it is not irrelevant and, Counselor, once again understanding who you represent, it goes to the heart of the matter of the whole sense of an office.

MS. MILLER: Could you repeat the question?

MR. McCANN: Yes, ma'am. If there were philosophical differences on board of control issues, do you feel you had any recourse to communicating your --

MS. MILLER: Okay. Let's just stop with that. Let's break that question down because there were like three questions in there.

MR. McCANN: All right.

BY MR. McCANN:

Q The first one would be if there were philosophical differences on the board of control issues, do you feel you have any recourse to communicating your concern?

A Yes, I do.

Q Would you communicate that concern to director Linda Sowa-Phelps?
A No.
Q To whom would you communicate your concern?
A If I have, say, a contract that I'm not sure was bid properly or, I don't know, if they don't have sufficient whatever, just not enough documentation or just if we don't know if it needs board of control or not, I -- before I would talk to Linda and people do this all the time.

If, you know, they ask mom a question, she says no and then they go ask dad and tell them something different and then, you know, dad says yes, and that's what happens so I kind of bypassed her.

I go straight to our chair for board of control and I'll ask a very vague question leaving out names, departments, vendors and we get a written answer about the issue and that's how we handle that.

MS. MILLER: Who is the chair of the board of control?

THE WITNESS: Linda Murphy most of the time, yeah.

MS. MILLER: Okay.

BY MR. McCANN:
Q My next question is, if someone adds an item to the board of control agenda, is there an adequate amount of time to review the material?
MS. BRIGGS: Objection. I object to how is this relevant to why we're here today? I don't know.
MR. McCANN: You will see in just a moment if you allow me to continue my line of questioning.
MS. MILLER: Overruled. Go ahead.
THE WITNESS: What was that?
BY MR. McCANN:
Q I'll repeat the question. If someone adds an item to the board of control agenda, is there an adequate amount of time to review the material?
A No, we have a deadline of Friday at noon. The meeting's Wednesday so if something's added on, we haven't read all of the documentation.
Q So according to your minutes of August 3rd, 2005, there was an add-on by insurance's Don Mittiga to the agenda for professional service contract for the Cleveland based center for Family and Children subsidiary Ease at Work, would you have had time to review the documentation?

A No, not if it was added on.
Q Finally, are you familiar with the Ohio Revised Code Section 2921.03?
A No.
Q All right. I'm going to give you a copy of that and I have nothing further.

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CROSS-EXAMINATION

BY MS. BRIGGS:
Q You testified that you --

MS. MILLER: Wait, hold on a second. What is 2921.03?

MR. McCANN: It's entitled intimidation. Shall I read it?

MS. MILLER: No.

MR. McCANN: Okay.

BY MS. BRIGGS:
Q You testified that you overheard a conversation with Dave and Jill regarding computer software --
A Yes.
Q -- in your office?
A (Witness nodding head up and down.)
Q In fact, you couldn't hear anything that Ms. Skapin was saying during that conversation, could you?

A No.
Q So you have no idea what she might have been saying to Mr. McCann?
A No, only what we discussed.
Q Okay. You testified something about you felt Mr. Nelson was covering up for Ms. Phelps and Ms. Skapin because he's been promised Ms. Phelps' job.
What did you mean by that, covering up for what?
A Well, the question, I was answering the question. I don't know about any covering up but if I were asked why --
Q That was the question and you answered yes so what was he covering up?
A Why, why would something be covered up. That's my question, why.
MR. McCANN: And the --
THE WITNESS: What was covered up?
MS. BRIGGS: Excuse me, you're not allowed to talk to her.
MR. McCANN: Objection, please.
MS. MILLER: Overruled.
BY MS. BRIGGS:
Q You also made a statement that you didn't think anybody else has been sent to EAP.

Are you involved with EAP program?
A No, I'm not.
Q Do you refer people to EAP?
A No.
Q So, in fact, you really have no idea who has been sent to EAP or anger management under the executive's office, do you?
A No, my statement was I have never heard of anyone.
Q Okay. And the disturbance that happened on February 8th in the budget and management office, you, in fact, were not present when Mr. McCann was standing outside Ms. Yee's office raising his voice?
MR. McCANN: Objection.
MS. MILLER: Overruled.
THE WITNESS: No, I was not --
BY MS. BRIGGS:
Q Okay.
A -- there.
Q And you just testified about the contract for Ease At Work and the fact that you didn't have time to review the documentation. Do you vote on the board of control?
A No.
Q Do you have any say as to what contracts go

through or don't go through?
A No, I just present the documentation to the board members.
Q Okay. On the letter that Mr. McCann wrote -- or read, excuse me, that you wrote on his behalf, where you say that Ms. Skapin is rude to employees and her lack of personality, have you ever, in fact, had a conversation with Ms. Skapin?
A Yes, I have.
Q Can you give me an example of why she's rude and lack of personality?
A Oh, yes. Yes, I can. I've had a phone call -- let's see, the most recent one we had an item on board of control that was listed for Bob Scarlitelli that was listed wireless communications as the department on the agenda.

I got a really rude, nasty phone call, yelling and screaming and what are you doing? What department is that? I've never heard of that department. That department's called communications, blah-blah-blah, just on and on and on. I was like, so that's just -- that's par for the course.
Q Are there many other examples? Have you had a lot of communications with Ms. Skapin? Do you work

with her on a daily basis?

A No. No, I do not.

MS. BRIGGS: Okay. I don't have any further questions.

MS. MILLER: Dave, do you have anymore questions?

MR. McCANN: Nothing further.

MS. MILLER: Okay. Thank you.

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JOYCE SLOAN

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Will you, please, state your name, spelling your last name and your former position with Summit County?

A Okay, my name is Joyce Sloan, S-l-o-a-n, and I was the deputy director of purchasing.

Q Thank you, Joyce. Three years ago in July of 2003, you were director of purchasing; is that correct?

A Correct.

Q And you completed my job evaluation in July of

2003; is that correct?
A Correct.
Q I would now like to read from that job evaluation.
MS. MILLER: One second. Who did you work -- what appointing authority did you work for?
THE WITNESS: I worked for the county executive.
MS. MILLER: Okay. Your husband worked for the fiscal office; is that right?
THE WITNESS: Yeah.
MS. MILLER: I was confused, sorry.
BY MR. McCANN:
Q There were five areas where the director of purchasing makes comments and the first one is resource management. Ms. Sloan wrote, David is extremely organized. He begins contact with the various offices when legislation is introduced, authorizing advertisement to bid, informing them of his availability and assists in the bid process. He is in contact with the offices immediately after passage of the legislation to complete the bid documents advertised and go through the bid process to completion.
The second section is administrative

professional effectiveness. David always projects a professional image when he is in contact with the various offices, personnel, vendors and the public. He is very dependable and you can rely on him to complete whatever task he is working on.

The third area is decision making. David has the ability to identify and solve problems very efficiently and effectively. He always obtains every bit of information before making a decision or suggestion as to the best course of action to take. David is very capable of making changes quickly and effectively.

The fourth area is communication. David is always available and believes one of the main functions of the purchasing department is to help in whatever way possible to get to the end result properly.

The fifth area is agency/division compliance. David totally understands the functioning of the purchasing department and continues to reinforce the importance of the department and how we should work with other departments, vendors and the public. He always assists in solving problems and continuously looks for ways to obtain the best results.

If I had an anger problem in 2003, it would have been noted on my job evaluation?
A Yes.
Q Did I stay late as needed to insure bids were delivered or equipment was received?
A Yes.
Q At any time between July 1999 when the director of budget and management began until your retirement, did she ever express a contempt for any one man by saying words like I am going to break him?
MS. BRIGGS: Objection. I don't understand the question.
MS. MILLER: Are you asking did Linda Phelps say that word?
MR. McCANN: Yes, or words to that effect about any one man.
THE WITNESS: About any one man?
BY MR. McCANN:
Q Yes.
A Yeah, she did.
MR. McCANN: I have nothing further.

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CROSS-EXAMINATION

BY MS. BRIGGS:
Q Joyce, how long have you been retired from your

job with the county?
A I retired in -- well, I left in January of '05 and my retirement was effective May of '05.
Q Okay. So since May of '05, you would have no knowledge of Mr. McCann's job performance or any potential anger issues?
A No.
MS. BRIGGS: Okay. Nothing further.
MS. MILLER: Do you know who she was talking about when she said that?
THE WITNESS: No.
MS. MILLER: Okay.
THE WITNESS: I mean, nobody in particular at that particular time. That might have been, you know, just in conversation.
MS. MILLER: Okay.
MR. McCANN: Nothing further.
MS. MILLER: Thank you. Dave, are you going to admit that job evaluation?
MR. McCANN: Yes, if you'd like, I have necessary copies.
MS. MILLER: Dave, on your exhibits, just write numbers. Kasie's letters, you're numbers.

MR. McCANN: Okay. That's fine.

(Exhibit 1 was marked for identification.)

DEBORAH HERSHFIELD

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

MR. DeFEO: We did have a couple of issues I wanted to address.

Mr. McCann had sent us a release of information that he had drafted and it's Ease At Work's policy to use their own form of release.

MS. MILLER: Okay.

MR. DeFEO: And we have that here, and we'd like to execute this as something that covers the testimony for today.

MR. McCANN: That's fine.

MR. DeFEO: Please, review that.

MR. McCANN: Okay.

MR. DeFEO: I think there's something at the top that needs your name also.

MR. McCANN: Okay.

MR. DeFEO: Also, Mr. McCann has made a couple of requests for documents. One was

made under the authority of the Ohio Public Records Act, and another was under the administrative -- or the -- yes, the rules for social workers, and we had been taking that under review and a letter was sent to you yesterday. You probably haven't received it. Here's a copy.

Ease At Work reviewed our requirements, our legal requirements, for giving you access to those documents, and under the Public Records Act, we're unable to do it.

Those documents are expressly excluded from public records and there is a method for you to get those documents, but you must ask Fred Blevins to make a request in writing. If you make that request through Fred Blevins, then you can get the documents but we are unable to give them to you at this point.

MR. McCANN: For the record, thank you for your courtesy, Counselor, and we'll address some of those issues presently.

BY MR. McCANN:

Q First, would you, please, state your name and spell your last name, please?

A Deborah Hershfield. Spell my last name?
Q Please.
A H-e-r-s-h-f-i-e-l-d.
Q And your position with the Cleveland-based children -- or Family & Children subsidiary Ease At Work?
A I'm the market manager for the Akron office for Ease At Work.
Q Okay. And your professional designation?
A Licensed independent social worker.
Q And you are licensed through the State of Ohio; is that correct?
A Yes, correct.
Q All right. Thank you.

MS. MILLER: Can I ask a question? Whatever documents he requested from you that you need a written request from Blevins, did you bring them with you so if he gives the request to Blevins he can because isn't he here? Isn't Blevins here?

MR. DeFEO: No, we don't have those with us.

MS. MILLER: Okay.

MR. McCANN: We'll be dealing with that matter in just a moment, Counselor.

MS. MILLER: Okay.

BY MR. McCANN:

Q For the record, I would like to read your letter.

Dear Mr. McCann, we received your initial request under Ohio Revised Code Section 149.43 and 149.44 sections of the Ohio Public Records Act and your second request under the Ohio Administrative Code Section 4757-5-01 in each case for a copy of records for David McCann maintained by Ease At Work and Center For Families & Children, the center. Please note that the center, including its division Ease At Work, is a private, nonprofit organization, not a public agency. As a private entity, the center is not subject to the disclosure provisions of the Ohio Public Records Act that you cite. Even if the center was subject to these provisions, Section 149.431A1 of the act expressly excludes from public records any information identifying an individual receiving counseling or other service. Section 149.431A1 states any information directly or indirectly identifying a present or former individual patient or client or his diagnosis, prognosis or medical treatment, treatment for a mental or emotional disorder, treatment for mental retardation or a

developmental disability, treatment for drug abuse or alcoholism or counseling for personal or social problems is not a public record. Ohio Administrative Code Section 4757-5-01 imposes a duty on counselors to release records to those who receive treatment or --

MS. MILLER: Dave, can you slow down while you're reading? It's real hard for her to get that.

MR. McCANN: I'm sorry. I know we want to move things along. I'll go back.

BY MR. McCANN:

Q Ohio Administrative Code 4757-5-01 imposes a duty on counselors to release records to those who receive treatment or services from the counselors and in this case, Mr. Fred Blevins is your counselor and your client/counselor relationship is with Mr. Blevins. Mr. Blevins is not employed by the center or Ease At Work. He renders services as a member of the network of counselors available to Ease At Work. If you desire to have a copy of records you believe are in the possession of Ease At Work or the center relating to the counseling services you received, you must request those records from Mr. Blevins because

your relationship as a client is with Mr. Blevins. We can only release to an individual information in our possession related to services provided to that individual at the direction of the counselor providing the services. To handle this request in any different manner places the center in a position of ignoring the specific relationships created between counselor and clients which we are not at liberty to ignore. If you write to Mr. Blevins and ask him to direct the center and Ease At Work to release a copy of records we have in our possession pertaining to your treatment, we will be able to turn a copy of any such records over to you when we receive that written direction from Mr. Blevins. Please understand that we must strictly adhere to these rules. Please call me if you have questions respecting the foregoing. Very truly yours, Debbie Hershfield.

As my first exhibit, I cite from the Ohio Administrative Code, Code Section 4757-19-02, requirements for licensure as an independent social worker and, again, to repeat, you are a licensed independent social worker?

A Yes.

Q In relation to this section of the Ohio

Administrative Code, you do have a master's degree in social work?

A Yes.

Q And you have had two years of supervised social work experience?

A Yes.

Q All right. The next section would be Exhibit 3.

(Exhibit 3 was marked for identification.)

MS. MILLER: Dave, she has stickers that you can put on. You don't have to write exhibit every time if you want to use them.

MR. McCANN: Thank you.

BY MR. McCANN:

Q This is from Ohio Administrative Code 4757-5-01, Section Five, and I would like to read from Section Five, counselors, social workers and marriage and family therapists shall provide clients with reasonable access to records concerning the client.

I now would like to as the next exhibit substitute Ohio senate bill 19, the effective date January 27th, 2006 as Exhibit 4.

(Exhibit 4 was marked for identification.)

BY MR. McCANN:
Q And the section will be 6 on page 2.
Section 6 of this substitute Ohio senate bill 19 reads when the employee assistance professional has the expressed consent of the client or if the client is deceased or disabled, the client's legal representative or when the testimonial privilege is abrogated under law, these are the exceptions in terms of what may be released and that precedes on the following page.
MR. McCANN: The next exhibit is Exhibit 5.
(Exhibit 5 was marked for identification.)
BY MR. McCANN:
Q This is from Ohio Administrative Code 4757-5-01, and it is noted, a check mark there --
MS. MILLER: This is 4?
MR. McCANN: This would be No. 5.
BY MR. McCANN:
Q Under this section, discrimination, counselor, social workers and marriage and family therapists shall not practice, condone, facilitate or collaborate in any form of discrimination on the basis of race, ethnicity, national origin, color,

sex, sexual orientation, age, marital status, political belief, veteran status or mental or physical challenge.

My next exhibit is the Ease referral form for managers and supervisors and that would be Exhibit 6.

(Exhibit 6 was marked for identification.)

BY MR. McCANN:

Q Ms. Hershfield, have you ever seen this document before?

A Yes.

Q Did you also note my signature and the notation I made in the lower right-hand corner?

A Yes.

Q Was that of any concern to you?

A No.

MR. McCANN: I'd like now to as the next exhibit, Exhibit 7.

(Exhibit 7 was marked for identification.)

BY MR. McCANN.

Q This is from Ohio Administrative Code 4757-21-03, scope of practice for an independent social worker. This would be 7, and I'd like to read

this for the record, please.

MR. DeFEO: I would just like to interject that Ms. Hershfield's not being charged with anything in this hearing and this isn't about whether she is practicing within the scope of her profession. It's not what my understanding and the nature of the hearing is today.

MR. McCANN: Counselor, and I appreciate the question, Counselor. The whole notion of what I am leading up to is a situation where I was ultimately terminated from employment for alleged insubordination for my failure to see a medical doctor whose specialty is psychiatry, and towards that goal if you will bear with me, please, there are questions that I am leading to.

MS. MILLER: Overruled.

BY MR. McCANN:

Q Scope of practice for an independent social worker. Using the definition of social workers defined in division C of Section 4757.1 of the revised code, the board adopts the following scope of practice for an independent social worker.

An independent social worker may perform for

a fee, salary or other consideration, counseling, psychosocial interventions and social psycho therapy without supervision in an agency setting as a private practitioner or as an independent contractor.

Section B, the scope of practice for an independent social worker may include those duties as described in table B of this rule. Table B, scope of practice, range of duties, psycho social assessment, intervention planning, psycho social intervention and social psychotherapy which includes the diagnosis and treatment of mental and emotional disorders in counseling. Program assessment, planning and development, program implementation and evaluation, organizational assessment, planning and development, intervention, accountability and supervision, specialized problem, oriented assessment, specialized project or case oriented planning, specialized intervention, evaluation of consultation activities, provide training, supervision for social workers seeking licensure as independent social workers.

Did you review any of Mr. Blevins' recommendations?

A Yes, I did.
Q On the last page of his fax to you, follow-up recommendations, Mr. Blevins says continue EAP assessment, counseling to determine nature and extent of any possible anger management issues.
Have you seen that document?
A Yes, I have.
Q All right. So we --
MS. BRIGGS: Excuse me one second. May I get a copy of that? I have never seen this document before.
MR. McCANN: I believe I have it if you'll bear with me just a moment, please.
MS. BRIGGS: Thank you.
MS. MILLER: Is this 8 then?
MR. McCANN: Yes.
(Exhibit 8 was marked for identification.)
BY MR. McCANN:
Q So would it be your opinion --
MS. MILLER: Can I stop you for a second?
MR. McCANN: Yes.
MS. MILLER: What's page 1 and 2? This is only page 3.
MR. McCANN: No, I understand. Those

were the faxed materials forwarded to Ms. Hershfield.

MS. MILLER: Is there a page 1 and 2?

MR. McCANN: Well, I'm sure there were 22 pages to the whole document that went to Ms. Hershfield.

MS. MILLER: Okay. Is someone going to admit the whole 22? I don't know what that is. I don't have -- I've never seen that.

MR. McCANN: Okay. Well, I'm admitting the document and the witness has said she has seen this before.

MS. MILLER: Right. But it's kind of hard for me to know what the whole -- what the context of any of this -- I don't even know what this form begins with, do you know what I'm saying? I don't know what form this is.

MR. McCANN: Yeah, I understand. This is the fax material that Mr. Blevins forwarded to the Ease At Work representative.

MS. MILLER: Is this the request you were looking for? Is this the whole document?

MR. McCANN: I have the documentation that I need from Mr. Blevins.

MS. MILLER: So you have the whole document?

MR. McCANN: No, I do not.

MR. DeFEO: I will object to this line of questioning if we don't have an entire document to look at.

MR. McCANN: All right. Then I will move to my next exhibit. I'll accept. You may sustain his --

MS. MILLER: Okay. Well, just wait, Dave. I think this is easy to fix.

If you have the whole document, we'll just copy the whole document and we'll have the whole thing if you have it.

MS. BRIGGS: Do you want to take a short recess?

MS. MILLER: Sure. We'll just take a five-minute break and Dave will get the whole document.

(Recess taken.)

- - -

MS. MILLER: Let's go back on the record for a second.

Do you have the document then? You said it was 22 pages.

MR. McCANN: What Mr. Blevins provided me were applicable to my request but they were -- 22 pages were not issued to me.

MS. MILLER: So 22 pages is the whole document?

MR. McCANN: That was faxed to the Ease At Work.

MS. MILLER: And you've received some of them?

MR. McCANN: That's correct.

MS. MILLER: Okay. How many pages did you receive?

MR. McCANN: I have seven pages.

MS. MILLER: Okay. How about if we have Janis copy those seven that you have and then -- because I see your problem. You can't give me all 22 because you don't have it; is that right?

MR. McCANN: That's correct.

MS. MILLER: And you can't have it until you get the written request from Blevins to Hershfield?

MR. McCANN: I can't answer that question because there are nuances that are involved here that I'm sure counsel is aware of that

I would rather not go in to at this time.

MS. MILLER: Okay. Then let's get at least those seven pages.

MR. McCANN: That's fine.

MS. MILLER: He just stated that there are 22 pages to the entire document, but he has never received all 22. Those are part of the documents that he's trying to get.

MS. BRIGGS: Okay.

MS. MILLER: So there are seven pages and he's going to -- Janis is going to copy the seven pages that he has and we're still on break.

MS. BRIGGS: Okay.

(Recess taken.)

- - -

MS. MILLER: We're back.

MR. McCANN: Okay.

MS. MILLER: So we're going to mark that as Exhibit 8, the whole thing because that includes what you -- the one page you had previously marked as 8; is that correct?

MR. McCANN: Yes.

MS. MILLER: Okay.

(Exhibit 8 was remarked for

identification.)

BY MR. McCANN:

Q I'd like to if I may begin, looking at the first document that my referral to Ease At Work was for anger management; is that correct?

MS. MILLER: You're looking at a page of -- that's got three fax covers on it?

MR. McCANN: Yes.

MS. MILLER: All right.

THE WITNESS: This page?

BY MR. McCANN:

Q Yes. My referral was for anger management; is that correct?

MS. MILLER: Dave, I'm sorry, are you looking at this page?

MR. McCANN: I'm looking at this page.

BY MR. McCANN:

Q You'll see in the upper left-hand corner the date of the assessment was February 24th, 2006, and administrative referral for anger management is there, an acknowledgement. That was my referral; is that correct?

A This is Fred Blevins' assessment.

Q Right.

A This is your referral.

Q Right.
A Can you ask the question again?
Q Sure, by all means. Is there an acknowledgement that my referral to Ease At Work was for anger management?
A Your --
MS. MILLER: I think the problem is that she's calling this the referral.
BY MR. McCANN:
Q All right. Well, maybe this will help. This is page 20 of 22 that was forwarded to you.
A Well, I have that here.
Q Okay. You should have that and then here it says I just need an acknowledgement that was an administrative referral for anger management.
MR. DeFEO: Are you saying acknowledgement by Mr. Blevins, by yourself?
BY MR. McCANN:
Q By Ease At Work that my referral was for anger management as you saw it?
MS. MILLER: Okay. Stop for one second. You're looking at page 1 of your new Exhibit 8 but let me ask you, when he keeps saying a referral form, you look to Exhibit 6 as a referral form?

THE WITNESS: Correct.

MS. MILLER: Okay. What -- how does this page 1 of Exhibit 8, how does this become created? Who creates this?

THE WITNESS: Fred Blevins creates this. Standard practice anytime a management referral is sent in to a counselor, the counselor does this assessment summary.

MS. MILLER: Okay. Just so I understand, Fred Blevins would get Exhibit 6?

THE WITNESS: Correct.

MS. MILLER: Okay. And in response to receipt of Exhibit 6, he would generate page 1 of Exhibit 8?

THE WITNESS: Page 1, 2 and 3.

MS. MILLER: Okay.

THE WITNESS: It's a three-page document.

MS. MILLER: Okay. Thank you. Go ahead, Dave. I'm sorry, just trying to understand.

MR. McCANN: No, that's fine.

BY MR. McCANN:

Q The question again, with the fax material, is there an acknowledgement that my referral to Mr. Blevins was for anger management?

A Is that a yes-or-no answer?

Q Yes.
A I would say it was -- it's difficult for me to answer that yes or no. The referral -- my acknowledgement of your referral was based on the information that came in on this form. What Fred Blevins wrote here is his assessments. This is his assessments.
Q I understand.
A My acknowledgment of the reason that you were sent in was based on this form and what it says in this form.
Q Okay.
A Okay.
Q I understand that but, again, you received the 22-page fax from Mr. Blevins so to confirm the reasoning for my going to Ease At Work according to Mr. Blevins' administrative referral for anger management?
A I'm not familiar with the 22-page fax that -- I'm not clear all of what's contained in that.
Q Yes, and neither am I, unfortunately, because right here this is page 20 of 22 and it says administrative referral for anger management.
MS. MILLER: That is at the top of Exhibit 8, page 1?

MR. McCANN: Yes.
MS. MILLER: Okay. That didn't come out on the copy.
MR. DeFEO: May I see that?
MR. McCANN: Yes, by all means.
MS. MILLER: Dave, can I -- can you repeat your question because I think there's -- we're having a communication problem?
MR. McCANN: All I need is an acknowledgment from Ms. Hershfield that, in fact, my referral was for anger management.
MS. MILLER: Okay. And she looks at Exhibit 6 as the referral.
THE WITNESS: You're asking me to interpret the reason that Summit County sent you in and I do that based on this.
BY MR. McCANN:
Q I understand.
A This is Mr. Blevins, his assessments.
Q And this is what he's being paid to do so if I rephrase the question to say would Mr. Blevins be paid for his services to provide anger management for me?
A Yes, if that were required, appropriate and necessary, yes.

Q That's fine. Okay. So with his assessment, then it is agreed upon that initially my reason for seeing Mr. Blevins was for anger management?
A My understanding was your reason for seeing Mr. Blevins was because of the stated issues on this management referral form.
Q Okay. Which according to Mr. Blevins are anger management?
A You'd have to ask Mr. Blevins about his interpretation.
Q Okay. That's fine. I'll accept that.
A Okay.
Q Now, this is where I have problems, and you'll see the three-part series here.

MS. MILLER: This would be page 4 of Exhibit 8, correct?

MR. McCANN: Yes.

BY MR. McCANN:

Q My initial referral according to Mr. Blevins was for anger management and if you look to the right and to the bottom, it should be noted with an ink mark I believe. If not, I'll be happy to note it and this was forwarded from Mr. Blevins to Ms. Hershfield.

MR. DeFEO: I don't see an ink mark.

MR. McCANN: Oh, I beg your pardon. I'll be happy to --

MS. MILLER: I think he underlined the words anger management.

MR. McCANN: Right here. I'll do it again, that's not a problem.

BY MR. McCANN:

Q So Mr. McCann has according to Mr. Blevins been referred for anger management, and then in his follow-up of March 2nd according to Mr. Blevins, client does not believe that he has job performance issues, and then you'll see that first, and then at the bottom what Ms. Hershfield forwarded to Michelle Smith of the department of insurance, and I'll read this, this will include continuing to see the EAP counselor individually to assist in improving work performance issues, so we have moved from one singular issue of anger management suddenly to work performance issues and I will just ask the question.

MR. DeFEO: Could I?

MR. McCANN: Yes, by all means.

MR. DeFEO: Do we have the entire page for it because I believe this is an incomplete portion? I'm just trying to see

so we can see this in context.

MR. McCANN: All right. Even if it was in context, Counselor, we are moving from a referral to anger management, and I can certainly spend the time to find it to the notion and even if we ignore that, we still have the bottom portion which is in its entirety and we can focus exclusively on that if you'd like, that's not a problem with me, that Ms. Hershfield acknowledged to Michelle Smith that the counselor will continue to see to assist me in improving work performance issues, so we have moved from a singular issue of anger management to work performance issues.

BY MR. McCANN:

Q My question is, had there been any communication between you and Mr. Blevins regarding my referral?

A Yes.

Q Telephone?

A (Witness nodding head up and down.)

Q And was there any discussion regarding changing the reason for my referral?

MS. BRIGGS: Objection. I don't think the referral was changed. Ms. Hershfield

has testified that she relied on the referral form which does specifically talk about performance issues.

MR. McCANN: And I appreciate that Counselor, however, as a licensed independent social worker, if we are moving and went to the heart of what the responsibility is for a licensed independent social worker, if we are moving from one avenue of counseling for me to another matter entirely, then there should have been an evaluation.

MS. MILLER: Could you repeat the question for her?

MR. McCANN: Yes, by all means.

BY MR. McCANN:

Q I had made a question as to whether you had been in communication with Mr. Blevins regarding this matter and had you discussed any change to the reason for my having counseling?

A No, we didn't.

Q You didn't. All right. Were you pressured by anyone to change the reason for my counseling?

A No, I wasn't.

Q Would you be familiar at all with what the job

performance issues were?
A What was listed on this management referral form.
Q Okay.
MR. McCANN: I have nothing further.
MS. BRIGGS: I don't have any questions.
MS. MILLER: Okay. That's it. Thank you.
THE WITNESS: Okay. Thank you very much.
MS. MILLER: Is Fred Blevins here?

DENNIS GUTOWSKI

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:
Q Dennis, will you, please, state your name, spelling your last name and your last position with Summit County?
A My name's Dennis Gutowski, spelled G-u-t-o-w-s-k-i. Until January 16th of 2006, I was the executive director of the Veterans Service Commission for nine and a half years.
MS. MILLER: And you're retired?
THE WITNESS: No, I took a position with another organization, however, I still am a

consultant with the Veterans Service Commission and I work eight hours per pay period.

MS. MILLER: Thank you.

BY MR. McCANN:

Q My first question is, you are appointed by the Common Pleas Court in your position? You are appointed by the Common Pleas Court judges?

A No, I was hired by the commissioners who are appointed by the Common Pleas judges.

Q All right. Thank you. Very quickly, and I appreciate you coming in today, our cooperative work began in July 1999 when you needed a new computer system.

From that point forward, did I insure that you received timely, accurate and services provided according to law for flag bids, newsletters, computer-like services?

A Yes.

MR. McCANN: I have nothing further.

MS. BRIGGS: I just want to note for the record my continuing objection of the relevance and the cumulativeness of the witnesses.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q I just have one question for you. Would you have any personal knowledge of Mr. -- any incidents that happened between Mr. McCann and his supervisors earlier this year?

A I was not present at any circumstances as you've addressed.

MS. BRIGGS: Okay. Thank you.

MS. MILLER: That's it. Thank you.

MARYANNE SWEENEY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Maryanne, will you, please, state your name, spelling your last name and telling us your current position?

A Maryanne Sweeney, S-w-e-e-n-e-y, support services administrator for the Summit County Sheriff's Office is my current position.

Q Thank you very much. Very quickly here, did I courteously provide you with information and prepare bid specifications as it's related to the medical services required for the jail?

A Yes.
Q Was it completed in a timely fashion?
A Yes.
Q And did I follow all lawful procedures that are prescribed by Summit County?
A I don't know. I think so. I mean --
MS. MILLER: If you don't know --
THE WITNESS: I don't know.
MS. MILLER: Okay.
MR. McCANN: That's fine. That's all I have.
THE WITNESS: Okay.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q One question, would you have any personal knowledge related to any incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No, ma'am.
MS. BRIGGS: Okay. Thank you.

RUSSELL B. GELTZ

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Deputy Geltz, will you, please, state your full name, spelling your last name and your position with the Summit County Sheriff's Office?

A Russell B. Geltz, last name is G-e-l-t-z. I'm the property evidence specialist for Summit County Sheriff's Office.

Q Thank you. As the deputy sheriff in charge of unclaimed personal items for the jail, did I work with you to insure their proper disposal whether donation or destroyed?

A Yes.

Q With the jewelry items, did I individually separate literally hundreds of pieces of jewelry to be weighed by an expert jewelry appraiser who was paid by the sheriff?

A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Sir, would you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No.

MS. BRIGGS: I have nothing further.

MS. MILLER: That's it. Thank you.

THE WITNESS: Okay.

ROBERT GALLIK

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Deputy, good morning. Will you, please, state your name, spelling your last name and your position with the sheriff's office?

A Robert Gallik, G-a-l-l-i-k, deputy, Summit County Sheriff's Office Training Bureau.

Q Thank you, Deputy. I'd like to show you two pictures, please.

This was -- the pictures that the deputy has deals with spent brass shell casings and my question is, did I courteously work with you and insure the timely and accurate weighing of over two tons of spent brass shell casings?

A Absolutely.

MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Sir, do you have any personal knowledge of

incidents that occurred between Mr. McCann and his supervisors earlier this year?

A Only what I've read in the paper.

MS. BRIGSS: Okay. Thank you.

JAMES A. FROST, JR.

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Jim, would you, please, state your name, spelling your last name and telling us your position with the fiscal office?

A James A. Frost, Jr., F-r-o-s-t, supervisor or assistant director of administration.

Q And that would be for what department?

A Services.

Q Services. Thank you. I'm going to show you two pictures.

Did you work with Mr. McCann to insure the accurate weight of spent brass shell casings?

A Yes.

Q Did he courteously communicate admission and physically help you throughout the process?

A Yes.

MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Sir, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No.

MS. BRIGGS: Okay. I have nothing further.

MS. MILLER: Thank you.

DALE SOLTIS

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Deputy Barrick, would you --

A I'm Soltis.

Q Soltis, I'm sorry.

A We work together.

Q All right. Deputy Soltis, would you kindly state your name?

A Dale Soltis.

Q And spell your last name.

A S as in Sam, o-l-t-i-s as in Sam.

Q Thank you. Your position with the Summit County Sheriff?
A Currently I'm a shift commander on afternoons. I got promoted since we talked last but that's what I do.
Q Thank you, and I'm sorry. There are a plethora of names.
A That's all right.
Q One of the things that we worked closely with was the disposal of inventory from the Ohio Building.
Did I work courteously and in a timely fashion to explain to you the requirements for moving large quantities of equipment and when equipment became available for transfer, did you -- did your trustees personally pick it up?
A Yes, they did.
Q Were there ever any problems in communicating with me?
A No, not at all.
MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Sir, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A Only what I've read in the newspaper.

MS. BRIGGS: Okay. Thank you.

THE WITNESS: Is this something I can get somebody to sign?

GAIL WARLEY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Good morning, Gail.

A Good morning.

Q Would you, please, state your name, spell your last name and your position with the Veterans Services Commission?

A My name is Gail Warley, and that's W-a-r-l-e-y. I work for the Summit County Veterans Service Commission and my position is administrative supervisor.

Q Thank you. One very quick question, please.

A Yes.

Q Did I courteously communicate with you on all purchasing procedures and insure the timely completion of projects such as the newsletter and the purchasing of Memorial Day flags?

A Oh, always, yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Ma'am, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No, other than what was published in the Akron Beacon Journal, no.

MS. BRIGGS: Okay. Thank you.

GEORGE M. BAKER

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Good morning, George.

A Good morning, David.

Q Would you, please, state your name, spelling your last name and your position with the Veterans Services Commission?

A George M. Baker, B-a-k-e-r, and I'm the executive director of the Summit County Veterans Service Commission.

Q Thank you. Very quickly, did I courteously

communicate with you and provide for the timely completion of all projects to include the purchase of Memorial Day flags, to include the veteran services newsletters and service contracts for your computers?

A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Sir, do you have any personal knowledge of any incidents that occurred between Mr. McCann and his supervisor earlier this year?

A No.

MS. BRIGGS: Okay. Thank you.

MARY LOU DAUGHERTY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Mary Lou, would you, please, state your name, spelling your last name and tell us your position with the clerk of courts?

A Okay, Mary Lou Daugherty, D-a-u-g-h-e-r-t-y, and I'm chief deputy with the Summit County Clerk of

Courts.
Q And any and all communications with the purchasing office, and I'll focus specifically earlier this year on the inventory disposal from the second floor of the Safety Building, did I work with you to take care of the voluminous quantities of material in the former clerk of courts site?
A Yes, you did.
MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Mary Lou, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No, not personal knowledge, no, just the newspaper article.
MS. BRIGGS: Okay. Thank you. That's it.

STEVE FINICAL

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:
Q Chief, would you, please, state your name?

A Sure.
Q Spell your last name and your position with the Summit County Sheriff's.
A Sure, Steve Finical, last name is F-i-n-i-c-a-l, and I'm assistant sheriff with the Summit County Sheriff's Office.
Q Thank you, Chief.

Beginning in 2001, we began working on a number of projects to include the acquisition of mattresses, food services, medical services, bunk beds, software for both the civil and jail divisions, Ameritech pay phones at the jails and, of course, the religious concerns that went with that about the cost.

Did I courteously communicate all aspects of the projects to you to include creation of bid specifications, necessary revisions insuring project completion?

A Yes, you did.

MS. MILLER: Did you say religious?

MR. McCANN: Yes, there was a concern among members of the religious community as to the cost that inmates would have that their -- the people they were calling would have to pay.

MS. MILLER: Oh, the pay phone?

MR. McCANN: Yes.

MS. MILLER: Okay, I'm sorry. You said mattresses and religious like in the same sentence and I couldn't figure that out, sorry.

MR. McCANN: I have nothing further. Thank you.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Real quickly, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No, I don't.

MS. BRIGGS: Okay. Thank you.

ROBERT DAVIS

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Lieutenant Davis, if you would, kindly state your full name and your position with the Summit County Sheriff, please.

A My name is Robert Davis. I am the administrative

lieutenant of corrections.

Q Thank you. My first question is this, did I courteously work with you and your staff to insure a quick turnaround on the issuance of bid specifications, sharing the bidder's meeting, going through each of the pages individually with all of the assembled vendors, did I insure all addendums were sent out in a timely fashion, and did I courteously communicate with you regarding the progress of the jail software program?

A Yes.

Q Were you aware of any controversy surrounding the jail software program being a competitive bid as opposed to being a request for proposals?

MS. BRIGGS: Objection. Irrelevant.

MS. MILLER: Overruled. Go ahead.

THE WITNESS: Yes, I was aware there was a question.

MR. McCANN: No further questions.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Real quickly, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No, I do not.

MS. BRIGGS: Okay. Thank you.

PAMELA J. MURRAY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Pamela, would you kindly state your name, spelling your last name and telling us your position with the sheriff's office?

A Pamela J. Murray, M-u-r-r-a-y, and I'm the budget management director at the Summit County Sheriff's Office.

Q On a personal note, I hope your veteran -- your United States Army son is doing okay.

A Thank you.

Q Good. I worked with you on a number of projects to include the medical services, food services, disposal of equipment such as radio and disposal of spent brass shell casings.

Did I courteously communicate with you regarding all of these projects and insure their timely completion?

A Absolutely.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Pam, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No.

MS. BRIGGS: Okay. Thank you.

TERRI K. COOLEY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Terri, would you, please, state your full name, spelling your last name and your position with the Summit County Sheriff?

A Terri K. Cooley, C-o-o-l-e-y, director of administration finance.

Q Thank you, Terri. One very quick question for you.

Did I courteously communicate and follow up on all aspects of competitive bidding processes such as medical services, food services, bunk beds and spent shell casings?

A Yes.

Q Did I work with you and insure the accurate weighing of jewelry that was part of the jail inmate property?
A Yes.
MR. McCANN: I have nothing further.
CROSS-EXAMINATION
BY MS. BRIGGS:
Q Just a quick one.
A Yeah.
Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A You mean witnessing?
Q Right.
A Just -- I don't even know how to put this. I guess through the grapevine.
Q Okay. So you weren't present, you don't have any knowledge of what goes on on a day-to-day basis with Mr. McCann and his supervisors?
A No.
MS. BRIGGS: Okay. Thank you.
CHARLES SWEENEY
of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Would you, please, state your name, spelling your last name and your position with the sheriff's office?

A Charles Sweeney, S-w-e-e-n-e-y, and I'm sports services administrator.

Q Chuck, one very quick question. Bear with me just a moment here, please.

Did I courteously communicate and follow up with all issues regarding the purchasing and the transfer of surplus computer items to your office?

A You did.

Q Did I courteously keep you informed on the progress of the jail's software bid?

A You did.

Q Did I complete the jail software bid in a timely fashion?

A You did.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No.

MS. BRIGGS: Okay. Thank you.

JOHN BARRICKMAN

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Would you, please, state your name, Deputy, spelling your last name and your position with the sheriff's office?

A John Barrickman, B-a-r-r-i-c-k-m-a-n, and my title is operational development.

Q Thank you, Deputy.

Did I work with you on the steel beds program for the jail?

A Yes.

Q Did I courteously communicate all aspects of that project to you?

A Yes.

Q Did I find a location and time and stamping in New Bremen, Ohio and suggest through the competitive bidding pricing mechanism that they be recommended and did you and Tom Hathaway visit the prototype at this location in Southern Ohio?

A Yes.
Q Did I assist you in the storage facility bid specification preparation?
A Yes.
Q Did I follow up on all of these programs in a timely fashion?
A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Do you have any personal knowledge related to incidents between Mr. McCann and his supervisors that occurred this year?
A Personal knowledge, just what's in the paper.

MS. BRIGGS: Okay. Thank you.

THE WITNESS: Thank you.

ROBERT BICKETT

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:
Q Bob, would you, please, state your full name, spelling your last name and your position with the juvenile court?

A Robert Bickett, B-i-c-k-e-t-t, court administrator.
Q Bob, both in your capacity when you were working with the sheriff's office and now in your capacity at juvenile court, did I courteously communicate and follow up on all aspects of projects whether food services, medical services, drug testing, disposal of equipment, software licensing, radar trailers for the sheriff's office?
A Yes.
Q If you ever had a question as you did for the cost of living allowance for the food contract, did you call me regarding my getting those from the Department of Labor Statistics?
A Yes.
Q Was that done in a timely fashion?
A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGSS:
Q Bob, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No.

MS. BRIGGS: Okay. Thank you.

CHRISTINE GARDNER-MARSHALL

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Christine, would you, please, state your full name, spelling your last name and your position, please?

A Okay, my full name is Christine Gardner-Marshall. Last name is spelled M-a-r-s-h-a-l-l. My title is deputy director for contract administration at the Department of Job & Family Services.

Q Thank you. Did you count on me to get the access card system off dead center and get it moving?

A Off dead center, I don't know what that term means.

Q In other words, there was nothing going on with the project until you called me and then the project got underway?

A I don't know about nothing going on with the project. I came in to it, I'm trying to remember the time of that.

We had started the bid packet ourselves, and then the decision was made when the county was

also bidding for the fiscal office area that we would do a combo bid and then that's when we called upon purchasing to help us with the bid packet.

Q Okay. So I was ultimately responsible for putting the --

A Ultimately, yes, excuse me.

Q That's fine.

A Ultimately, you ended up putting out the bid packet but we did start something first, yes.

Q Did I courteously communicate all aspects of the bid project to you?

A Yes.

MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGSS:

Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A Absolutely nothing.

Q Okay. Have you ever been referred to anger management related to your employment?

A No.

Q If you were so referred, would you feel it important to follow up with recommendations that

were made for you?

MR. McCANN: Objection.

MS. MILLER: Overruled, and I'll note your objection if she asks the question again.

THE WITNESS: Certainly.

MS. BRIGSS: Thank you. Nothing further.

REDIRECT EXAMINATION

BY MR. McCANN:

Q I have one final question, please.

Are you a classified or unclassified employee?

A I am classified.

Q And appointed by?

A I'm not appointed. Hired is classified.

Q Okay. Who hired you?

A Job and Family Services.

Q And the individual who ultimately made that decision?

A Dr. Daisy Alfred Smith.

MR. McCANN: Thank you.

RICHARD CINCURAK

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Rick, would you, please, state your full name, spelling your last name and your position with MRDD?

A Richard Cincurak, C-i-n-c-u-r-a-k. I'm coordinator of purchasing with Summit County Board of MRDD.

Q Rick, did I courteously answer your questions regarding matters of inventory disposal of surplus and purchases?

A Yes, you did.

Q You saw the inventory system that I developed. Did I effectively describe to you how the system would be beneficial to MRDD?

A Yes.

Q Did I courteously answer your questions and follow up in a timely fashion regarding the waste management bid specifications that went out earlier this year and how MRDD might piggyback on to those?

A Yes, you did.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Sir, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No.

MS. BRIGGS: Okay. Thank you.

ED HARSHBARGER

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Ed, would you, please, state your name, spelling your last name and your position with the prosecutor's office?
A Yes, Ed Harshbarger, H-a-r-s-h-b-a-r-g-e-r, and I'm the director of the prosecutor's child support enforcement agency.
Q Thank you, Ed. Earlier this year I had received notification about the coordination of computers to nonprofit organizations and previously there had been no problem but suddenly there were questions. Did that seem peculiar to you?
A Peculiar, perhaps.
Q Okay. Did I courteously work with you to resolve those issues, to get those computers to the

nonprofits that the prosecutor had designated?
A Yes.
MR. McCANN: I have nothing further.
CROSS-EXAMINATION
BY MS. BRIGGS:
Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A I do not.
MS. BRIGGS: Okay. Thank you.
SHIRLEY WASHINGTON
of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:
DIRECT EXAMINATION
BY MR. McCANN:
Q Shirley, would you kindly state your name, spelling your last name and your current position with the fiscal office?
A My name is Shirley Washington spelled W-a-s-h-i-n-g-t-o-n, and I am currently the community relations director -- support service administrator with the fiscal office.
Q And prior to that position, what position did you hold with the fiscal office?

A Prior to that, I held the position of purchasing agent with the fiscal office and before the merger, I was also purchasing agent with the Summit County Auditor's Office.
Q Thank you. Just one very quick question, during the time that you were with the fiscal office, did I courteously communicate and work with you on all projects related to purchasing?
A Yes, you did.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Shirley, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No, I have no personal knowledge.

MS. BRIGGS: Okay. Thank you.

MARY JEAN DONOFRIO

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:
Q Mary Jean, would you kindly state your name, spelling your last name and telling us your

position, please?
A Mary Jean Donofrio, D-o-n-o-f-r-i-o, deputy director board of elections.
Q Thank you. Earlier this year was crunch time to find a location for your new election machines; is that correct?
A Correct.
Q Did I effectively communicate with you and follow up in a timely fashion on all aspects of the project to include a portal-to-portal schedule of sites to be visited and provided a variety of locations to be visited?
A That's correct.
Q One of the things that a classified employee like myself has to deal with are the politics that are legitimately a part of the county.

Would you say that I handled those very effectively with this project?
A I would.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A Just from the papers.

MS. BRIGGS: Okay. Thank you.

BRIAN WILLIAMS

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Brian, will you, please, state your full name, spelling your last name and your position with the Summit County Board of Elections?

A Brian Williams, W-i-l-l-i-a-m-s, and I'm the director of the Summit County Board of Elections.

Q Thank you. At the beginning of this year was crunch time to find a location for your new election machines; is that correct?

A Yes, correct.

Q Did I effectively communicate and follow up on all aspects of the project to include a portal-to-portal schedule of sites to be visited and provided you with a variety of locations to be visited?

A Yes.

Q One of the things that a classified employee like myself faces are the politics which are

legitimately a part of the government.

Would you say I handled all of the aspects of the project regardless of the political politics of it?

A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A Only what I read in the newspaper. Nothing beyond what was reported.

MS. BRIGGS: Okay. Thank you.

MICHAEL CURRY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Would you, please, state your name, spelling your last name and your position with the Summit County Board of Elections?

A Michael Curry, C-u-r-r-y, I'm the assistant deputy director.

Q Thank you, Michael. Earlier this year the Summit County Board of Elections had to find a site for their new election machines.

Would you say that I effectively communicated with you regarding the project, progress of the project, insuring a timely portal-to-portal review of the facts and insured its timely completion?

A Yes.

MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Sir, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No.

MS. BRIGGS: Okay. Thank you.

JOHN MORGAN

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q John, would you kindly state your name, spelling your last name and your position with the fiscal

office?
A John Morgan, M-o-r-g-a-n. I'm the chief deputy fiscal officer.
Q Thank you. I have but one question, did I courteously work with you and insure proper follow-up on all matters related to inventory?
A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No.

MS. BRIGGS: Okay. Thank you.

SUSAN ROSZKOWSKI

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:
Q Would you kindly state your name, spelling your last name and your position?
A Susan Roszkowski, R-o-s-z-k-o-w-s-k-i, human resource specialist.

Q Thank you very much, Sue. In the purchasing office, we had had communications regarding automobiles.

Did you -- would you say that I effectively and courteously communicated and followed up on the project as it related to declaring those vehicles as surplus and insuring executive orders were prepared?

A Yes.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No, I have none at all.

MS. BRIGGS: Thanks.

JAY CHAPMAN

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Jay, if you would kindly state your name, spelling your last name and your position with the common

pleas court?
A Okay, it's Jay Chapman. The last name is C-h-a-p-m-a-n, and my position is network manager at the court.
Q Jay, as manager, you deal a lot with data processing items; is that correct?
A Correct.
Q Whenever you had questions regarding purchases, could you count on me to get back to you in a timely fashion and provide you with a courteous response?
A Yes, sir.

MR. McCANN: I have nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:
Q Do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?
A No.

MS. BRIGGS: Okay. Thank you.

VICTORIA REEDY

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Vicki, would you kindly tell us your name and spell your last name and your position with the executive's office?

A Okay, it's Victoria Reedy, R-e-e-d-y, and I'm executive assistant in the law department.

Q A very quick question for you, Vicki. Was I always courteous in my communication with you and timely in following up with the requirements of bids specifications for legislation to be submitted to council, following up on contracts for vendors, disposal of inventory?

A Always.

MR. McCANN: No further questions.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Vicki, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No, just hearsay.

Q Okay. Have you ever been referred to anger management related to your employment?

A No, I haven't.

Q If you were referred, would you feel it important to follow up with recommendations that were made

for you?
A I don't know.
MS. BRIGGS: Okay. Thank you.
ANN SHUMAN
of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:
DIRECT EXAMINATION
BY MR. McCANN:
Q Good morning, Ann.
A Good morning.
Q Will you, please, state your name, spelling your last name and your position with the office of finance and budget?
A My name is Ann Shuman, A-n-n, S-h-u-m-a-n. I'm a fiscal officer two.
Q And just one very brief question, did I courteously communicate and also follow up in a timely fashion with questions regarding electricity and natural gas?
A Yes.
MR. McCANN: Nothing further.
CROSS-EXAMINATION
BY MS. BRIGGS:
Q Ann, I just have a couple of questions for you.

Where's your office located?
A In the finance and budget department on the seventh floor.
Q Okay. Would you be close then with Kathy Yee's office and Brian Nelson's office?
A I'm two doors down from theirs.
Q Okay. Were you present on February 8th of this year when there was an incident that occurred outside of Ms. Yee's office between Mr. McCann and his supervisors?
A I was down in the development department until after 4 o'clock and when I came upstairs, I did hear some loud voices from that direction.

MS. BRIGGS: Okay. Thank you.

MS. MILLER: Let's take Rene. I'll allow her to be recalled.

MR. McCANN: Thank you.

RENE DORNACK

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:
Q Would you, please, state your name, spelling your last name, please?

A Dornack, D-o-r-n-a-c-k, Rene, R-e-n-e.
Q And your current position, please?
A Administrative secretary.
Q One of the issues that I personally have been dealing with is the issue of my being referred to anger management and my response to individuals.

You had a similar situation in early 2005 when there was a question of your continued employment with office services.

Were you summoned to Ms. Sowa-Phelps' office?
A Yes, I was.
Q How were you treated in that meeting?
A I was brow beaten.
Q Was Brian Nelson in the room with you?
A Yes, he was.
Q And what did Mr. Nelson say to you after the meeting?

MS. BRIGGS: I'm going to object to the relevance of this testimony.

MS. MILLER: Overruled.

THE WITNESS: Well, I think it's very relevant.

MS. BRIGGS: Well, it's not for you to decide. It's for the hearing officer to

decide.

THE WITNESS: I think it's relevant because --

MS. MILLER: Overruled. Go ahead.

THE WITNESS: Brian after the meeting told me to hold my chin up because Linda's not going to be around the whole time.

He sat there spineless through the whole meeting while she sat there and brow beat me and he had his head down. He couldn't even look at me and after in a closed-door meeting, he came up to me and he said, "Keep your chin up. She's not going to be here all the time. You know, she's going to be retiring soon."

MS. MILLER: In a closed-door meeting with you?

THE WITNESS: With just me --

MS. MILLER: Okay.

THE WITNESS: -- afterwards so I think it's relevant because --

MS. MILLER: Ms. --

THE WITNESS: I know. I know, I'm sorry.

MS. MILLER: You're doing a good job. Just answer the questions. You're doing

fine.

THE WITNESS: I just know that when I heard that what happened to David, I was like you go guy because I sat there and cried through my meeting with her and I would have liked to have raised my voice. I didn't have that opportunity because I was just a big baby like now.

MS. MILLER: It's okay. You're fine.

THE WITNESS: I wish I could have raised my voice because he doesn't need anger management.

I worked with him for three and a half years and I never -- he's never been angry. He doesn't need anger management, he never did. He's not the person who needs anger management and everybody is so spineless on that floor to stand up for him.

MR. McCANN: I have nothing further.

MS. BRIGGS: I don't have any questions.

MS. MILLER: Okay. Thank you.

KEITH CLARK

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Keith, would you, please, state your name, spelling your last name and your position with the insurance department?

A Keith, last name Clark, C-l-a-r-k, and I do the accounting for the insurance department.

Q Keith, very simply, did I courteously work with you and follow up on all aspects of purchasing requirements for insurance to include the purchase of software and computer equipment?

A Yes.

Q Were you involved at all with the Ease At Work contract?

A Other than the payment of the bills, no.

MR. McCANN: Nothing further.

CROSS-EXAMINATION

BY MS. BRIGGS:

Q Keith, do you have any personal knowledge of incidents that occurred between Mr. McCann and his supervisors earlier this year?

A No.

MS. BRIGGS: Okay. Thank you.

FRED BLEVINS

of lawful age, a Witness herein, having been first duly

sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MR. McCANN:

Q Fred, if you would kindly state your name, spelling your last name and your position, please?

A Sure, my name is Fred Blevins, B-l-e-v-i-n-s, and I'm a licensed professional clinical counselor in private practice.

Q And just to insure that you did receive the authorization to disclose health information?

A Yes, I did.

Q Okay. Thank you. I just have a few issues to deal with here, and maybe you can elaborate fully.

A Okay.

Q And I believe all of you have the exhibit that relates to his fax material to Ease At Work. I'll refer to the last page and Mr. Blevins' follow-up recommendation.

A Uh-huh.

Q Which refers to my coming for counseling for alleged anger management and it is so written there; is that correct?

A Okay.

Q Just an acknowledgement, yes, the referral was for

anger management?
A The EAP referral?
Q Yes.
A It was for anger management assessment as I understood it, yes.
Q All right. That's fine. The next document which has been handed out to the chair of this and opposing counsel and I'll give you a copy of this as well, I have highlighted with my ink marks what I am a little confused about.

I was initially referred for the singular issue of anger management?
A Uh-huh.
Q On the two Ease At Work report forms, it has suddenly evolved to job performance issues.

Were you, and my question is, were you contacted to change the reason for my referral?
A Those are essentially the same issues basically. A job performance issue concerns such things as attendance, conflict with other workers, completion of job tasks, those kind of things but job performance encompasses the area of conflict.
Q So why have we gone singular from anger management to job performance plural issues?
A Okay, please, point that out.

Q Sure, yes. As you'll see, they are noted by the black marking.
A Okay.
Q By the black marks there.
A Okay, let me read that. Okay, and what is your question?
Q The question is, why have we evolved from the singular issue of my referral for anger management now to issues related, issues plural, related to my job performance?
A Okay, I don't see that as happening. I mean, I don't understand how you're arriving at that conclusion.
Q It's in the document here. We're initially dealing -- either it was a job performance issue, singular or issues plural, and I would like -- I'm just curious why is there the change to my initial referral which was a singular anger management to the point to being job performance issues plural?

MS. BRIGGS: I'm going to object at this point. The question's been asked and answered.

MS. MILLER: Mr. Blevins, let me just try and ask it.

THE WITNESS: Okay.
MS. MILLER: When you read -- well, when you met with him, with Dave --
THE WITNESS: Yes.
MS. MILLER: -- the issue you were dealing with was the anger management referral?
THE WITNESS: I attempted to complete an anger management assessment which was never done.
MS. MILLER: Okay. And when you in your job you think that anger management or if Dave had a conflict with his supervisor, that would be a job performance issue?
THE WITNESS: That's correct.
MS. MILLER: Okay. Go ahead, Dave, you can keep going.
MR. McCANN: And I will note the chair saying a job performance issue, and it's noted in both bits of information there were issues and we're --
MS. MILLER: Can I try something else, David? I think this might -- did at any time anyone from the county contact you and say there was anything other -- going on

with Dave other than what was in this initial referral?

THE WITNESS: Anyone from Summit County, the employer?

MS. MILLER: The employer, Ease At Work, did anyone else say there was any other problem with Dave's work performance other than what was contained in Exhibit 6, the Ease referral form?

THE WITNESS: You mean anything other than the anger management?

MS. MILLER: Right.

THE WITNESS: Such as attendance or something else?

MS. MILLER: That he wasn't competent, that he wasn't doing his job properly.

THE WITNESS: No, I don't recall any other, yeah.

MS. MILLER: Okay.

MR. McCANN: I have nothing further.

MS. BRIGGS: I have no questions.

MS. MILLER: Okay. Wait, let's stop for one second though.

Dave, did you want to take care of this issue about not getting your fax?

MR. McCANN: No.
MS. MILLER: Okay.
THE WITNESS: Okay. Is it appropriate for me to ask Mr. McCann a question?
MS. MILLER: Sure.
THE WITNESS: Okay. I was wondering in all this why you never asked a particular question and the question was, why was I referred for an anger management assessment, you know, the assessment itself? I was never asked that, why I made that referral and I'm just curious because that's certainly something that could be answered but that's up to you?
MR. McCANN: And I've chosen not to.
THE WITNESS: Okay. All right.
MS. MILLER: Thank you. Who have we missed? Let's go off.
(Discussion had off record.)
MS. MILLER: I was just asking there were several people who could not or would not be available this week because they had -- it's, obviously, summer and they had vacations so Janis is going to say who those people are.

MR. McCANN: Before you do that --
MS. MILLER: Okay.
MR. McCANN: -- I would entertain closing statements.
MS. MILLER: Well, we're not -- I'm not done. I'm --
MR. McCANN: I'm just saying -- I'm asking.
MS. MILLER: We're not to that point yet.
MR. McCANN: Okay.
MS. CORBIN: Rosie Butler, B-u-t-l-e-r, Ray Valle, V-a-l-l-e, David Hannan, H-a-n-n-a-n, Nick Kostandaras, K-o-s-t-a-n-d-a-r-a-s, David Kish, K-i-s-h, Sharlee Greer, G-r-e-e-r, Ken Teleis, T-e-l-e-i-s, Diane Wheatley, W-h-e-a-t-l-e-y, Connie Vargo, V-a-r-g-o, Brian Lowe, L-o-w-e, Bob Gainer, G-a-i-n-e-r, and Sarah Leedham, L-e-e-d-h-a-m, and if I may make note, I may have missed sending her a subpoena because I have not heard from her and so I'm going to give -- call her.
MS. MILLER: Okay. Dave are you waiving those witnesses?

MR. McCANN: Yes, I am.

MS. MILLER: Okay. Then, Janis, if you would just communicate with those people and maybe not Sarah since you're not sure if we communicated with her initially that they are no longer under subpoena for this hearing.

MS. CORBIN: Okay.

MS. MILLER: Earlier today, Dave, there was a discussion with your witness, Shannon Lysenko, about a question for Brian Nelson, the issue about speaking or calling someone while you spoke with Jill. I don't remember exactly what happened.

Did you want to recall Brian to ask him that question?

MR. McCANN: No.

MS. MILLER: Okay. Is anyone going to call Linda Phelps who was present during this incident that occurred?

MS. BRIGGS: No.

MR. McCANN: No.

MS. MILLER: Okay. Kasie, do you have any other witnesses to call?

MS. BRIGGS: Yes, I have Leonard Foster.

MS. MILLER: Okay. And, Dave, do you have any other witnesses to call?

MR. McCANN: No further.

MS. MILLER: Okay. Is Leonard here today?

MS. BRIGGS: Yes.

MS. CORBIN: He was waiting for me to call.

MS. MILLER: Okay. Then we'll call him.

(Recess taken.)

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LEONARD FOSTER

of lawful age, a Witness herein, having been first duly sworn, as hereinafter certified, testified and said as follows:

DIRECT EXAMINATION

BY MS. BRIGGS:

Q Leonard, I just have a couple of questions for you and three exhibits that I want to go over quickly.

I don't know if you know, the hearing officer has consolidated our previous hearing on the suspension with this termination hearing, so this is all one hearing now so I just want to go over quickly what led up to the termination.

You know, we've been through everything that

led up to the 30-day suspension and after that. I'd just like you to take a look at this document and tell me if you recognize that and what it is and I believe that would be K, Exhibit K.

MS. MILLER: Yes.

MS. BRIGGS: I think that's where we left off.

(Exhibit K was marked for identification.)

BY MS. BRIGGS:

Q I'm sorry, go ahead.

A Yes, I'm familiar.

Q Okay. And what is that document?

A It's a notice of intent to discipline regarding the termination as it states on the -- March 17th we had a recommendation that David be suspended. Well, it was looking at a suspension. The report came back from the hearing officer. At this point in time the -- we had given him I think it was like 30 days or thereabouts in order to appear before the psychiatrist.

He did not do that so on the 31st of May, we sent this letter -- or I sent this letter to him informing him we were holding another pre D to determine whether or not he had appeared because

we had not had any communication with him prior to that time, to give him an opportunity to have -- to state whether he did or did not go. If he had not attended, we were going to then terminate him which ultimately we did.

Q Okay. There was a predisciplinary hearing held and that was in front of whom?

A Allison Leonard.

(Exhibit L was marked for identification.)

BY MS. BRIGGS:

Q Okay. And could you take a look at this document which would be Exhibit L and tell me if you recognize that and what it is?

A This is the -- yes, I do recognize it. This is the report from Allison Leonard, the hearing officer, giving me her findings as to the predisciplinary meeting, her determination as to whether she felt there was just cause for discipline or not.

Q Okay. And what was her determination?

A Her determination was that there was, in fact, just cause for discipline and at that point in time since there was, in fact, just cause for discipline, David was terminated.

(Exhibit M was marked for identification.)

BY MS. BRIGGS:

Q Okay. And if you could take a look at this exhibit, it would be M, tell me if you recognize that document and what that is, please.

A This is, in fact, the notice of termination having found that there was just cause, there was the letter going to Mr. McCann indicating or notifying him that his services with the county would no longer be warranted.

MS. BRIGGS: Okay. I have nothing further.

MR. McCANN: Just one question, please.

MS. MILLER: Okay.

CROSS-EXAMINATION

BY MR. McCANN:

Q Are you a classified or unclassified employee?

A I'm an unclassified employee.

Q And you work at the pleasure of the county executive?

A I work at the pleasure of the county executive.

MR. McCANN: Nothing further.

MS. MILLER: Thank you.

MS. BRIGGS: Thank you.

MS. MILLER: Okay. If I understand correctly then, you've rested? You have nothing else you want to submit?

MS. BRIGGS: Correct.

MS. MILLER: Now, Dave, I have two questions for you.

Are you going to admit your performance appraisals other than the one that you admitted?

MR. McCANN: The one from 2003 is the one that I am admitting.

MS. MILLER: You're not going to offer any of the other ones?

MR. McCANN: No.

MS. MILLER: Are you going to testify?

MR. McCANN: No. I do have a closing statement though if that can be entered.

MS. MILLER: Well, you know --

MR. McCANN: Or do we not have closing statements? You'll have to tell me what procedure is.

MS. MILLER: Well, the closing -- I can certainly allow you to have a closing statement then Attorney Briggs will have a closing statement as well, but the problem

is that nothing you say in that statement is evidence. What that closing statement would be would be reviewing the evidence that has been submitted.

MR. McCANN: And that would be on the record?

MS. MILLER: Sure. Now, I'm trying to say this the way that I -- if there are things that did not come out in testimony, if there is other evidence that you feel needs to be brought forth and it wasn't, you can't refer to that in the closing statement.

MR. McCANN: I understand.

MS. MILLER: Okay.

MR. McCANN: And everything in the closing statement has been presented and is a part of the evidence that I presented to you.

MS. MILLER: Okay. Your closing statement can't contain your statements because --

MR. McCANN: You're putting a lot of footnotes on this, Counselor.

MS. MILLER: No, I'm actually trying to

be helpful, Dave.

MR. McCANN: All right.

MS. MILLER: You didn't testify so I don't have any sworn testimony, any sworn evidence from you. I don't have your version of what occurred either on the phone with Ms. Skapin because Shannon's testimony is only your end of the conversation.

I don't have your version of what occurred between or didn't occur between you, Ms. Phelps and Brian Nelson.

All I'm saying to you is that your closing statement -- for example, your closing statement with Brian Nelson, if you commented on the incident that occurred between you and Ms. Phelps, the only evidence I have about what happened is Mr. Nelson's testimony.

MR. McCANN: So all of the information that has been given to you as a part of my request for this hearing is not evidence?

MS. MILLER: No, because if you want -- for example, I'm just going to give an absurd example, if you wrote in here that you took the elevator to the 8th floor,

Kasie is allowed to question how you took the elevator, what button did you push, she thought she could have a witness that saw you take the stairs. I just don't -- she has the opportunity to cross-examine you.

MR. McCANN: I'm not denying that.

MS. MILLER: Right. I'm just trying to say that I don't -- the evidence if I can just summarize what I've heard is that you've presented a lot of testimony about your work performance from many appointing authorities and many departments, and I've heard all of that and I have heard testimony from Ms. Hershfield and Mr. Blevins about what occurred after this incident occurred, but the only evidence I have regarding the incident with Ms. Skapin and the incident with Phelps and Nelson is Nelson's testimony and Shannon's testimony as to your side of that conversation. Now --

MR. McCANN: So the brief that I prepared for you that refers to the master servant, I mean, that's not --

MS. MILLER: It's not evidence. It's --

MR. McCANN: It's statement of law

though, my interpretation of the law which you as a hearing officer I would hope would consider as you go through this process.

MS. MILLER: I absolutely consider the law.

MR. McCANN: Okay, that's fine. That's all I can ask.

MS. MILLER: However, I can only consider evidence that's been presented here.

MR. McCANN: I understand.

MS. MILLER: And I'm just telling you what my recollection of the only evidence that's been presented.

MR. McCANN: In my brief to you, I do cite the law and I will trust that in your wisdom you will review that then I have nothing further and my case is closed.

MS. MILLER: Okay. What I would prefer rather than closing statements, Dave, is a brief from each side.

MR. McCANN: In terms of a typed brief?

MS. MILLER: Yes. It seems like you already have your statement typed?

MR. McCANN: Yes, I do.

MS. MILLER: So you could submit that.

MR. McCANN: That will be fine. I'll do that by e-mail. Is there a time frame that you want that?

MS. MILLER: Well, I'll give 30 days because Kasie didn't know that I was going to ask for that, but I just wanted to reiterate to you, Dave, that the information in your closing statement is not evidence.

MR. McCANN: I understand.

MS. MILLER: Okay.

MR. McCANN: And that you will duly consider all facets that deal with law?

MS. MILLER: I certainly will follow law, but I can only consider evidence that's been presented.

MR. McCANN: I understand.

MS. MILLER: Okay. If there's nothing further, then we're adjourned.

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(Proceedings adjourned at 11:28 o'clock, a.m.)

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C E R T I F I C A T E

STATE OF OHIO,)
)SS:
SUMMIT COUNTY.)

I, Leanne Garro, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that I attended the foregoing Proceedings in its entirety, and that I wrote the same in stenotype, to the best of my ability, and that this is a true and correct transcript of my Stenotype notes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio, on this 21st day of July, 2006.

Leanne Garro, Notary Public
in and for the State of Ohio.
My commission expires March 6, 2009.